

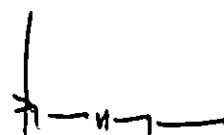



Sr. No.	Date	Orders
		<p>* IN THE HIGH COURT OF DELHI AT NEW DELHI</p> <p>+ ITA 18/2006</p> <p>THE COMMISSIONER OF INCOME TAX Appellant Through Mr. R.D. Jolly, Mr. Vishnu Sharma, Adv.& Mr. Deepak Kumar Shukla, Advs.</p> <p>versus</p> <p>M/S HONEYWELL DACE INDIA LTD. Respondent Through Nemo.</p> <p>CORAM: HON'BLE MR. JUSTICE T.S. THAKUR HON'BLE MR. JUSTICE J.M. MALIK</p> <p><u>ORDER</u> % 08.03.2006</p> <p>For the assessment year 2001-2002, the respondent-assessee declared a loss of Rs.5,28,942/- in its return filed on 31st October, 2001. The amount included a sum of Rs.1,01,957/- towards loss on account of sale of shares. The Assessing Officer disallowed the losses on the ground that the assessee had not carried on any business activity during the relevant period. The loss claimed on account of sale of shares was also similarly disallowed on the ground that no proof regarding said loss had been furnished. That order attained finality as the assessee did not prefer any appeal against the same. Penalty proceedings 271(1)(c) of the Income-tax Act, 1961 were thereafter initiated which culminated in a penalty of Rs.2,09,006/- being imposed upon</p>



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		<p>the assessee.</p> <p>The assessee appealed to the Commissioner of Income-tax (Appeals), who directed deletion of the penalty holding that the assessee had not furnished any incorrect particulars and that the requisite details had not been disclosed by him in the profit and loss account while filing the return. The Commissioner was also of the view that the assessee had been established only to transact business with the Ministry of Defence and that it could not have sold the imported goods to any other consumer. The Tribunal has, in a further appeal, preferred by the Revenue against the deletion of penalty, affirmed the order passed by the Commissioner.</p> <p>We have heard, Mr. Jolly, counsel appearing for the Revenue and perused the orders referred to above.</p> <p>The Commissioner as also the Tribunal have both concurrently come to the conclusion that the assessee had not furnished any incorrect particulars in the returns filed by it and that merely because the assessee had not been able to substantiate its claim for deduction of the amounts suffered towards losses, was no ground for holding that the expenses were not genuine. There is, in our view, no error of law in that view to warrant interference by this Court. Since the assessee had on the findings recorded by the Commissioner and the Tribunal furnished all the particulars relating to the expenditure claimed in its profit and loss account and also loss on account of sale of shares, the deletion of penalty by the Commissioner and the Tribunal</p>



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		<p>was legally justified.</p> <p>No substantial question of law arises for our consideration in this appeal, which fails and is hereby dismissed.</p> <p style="text-align: right;"> T.S. THAKUR, J</p> <p style="text-align: right;"> J.M. MALIK, J</p> <p>MARCH 08, 2006</p> <p>SS</p>